HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

-
-
-
-
-

W.P. No.17145 of 1997

10.10.2007

-
-
-
-
-
-

Between

Sk.Madina ..Petitioner

AND

Principal Secretary to Government, Social Welfare Department and others ..Respondents

-
-
-
-

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

-

W.P. No.17145 of 1997

The present writ petition has been filed seeking a writ of mandamus to direct the respondents herein to regularize the services of the writ petitioner as a Cook. It is the case of the petitioner that he has been recruited as a Cook in one of the hostels run and managed by the Andhra Pradesh Study Circle. The petitioner had been engaged on temporary basis on 7.2.1989 by the Deputy Director, A.P. Study Circle, Vishakhapatnam and he is still continuing in the said capacity. The petitioner however asserts that the post of Cook which is essentially needed, has been sanctioned in the establishment of the A.P. Study Circle at Vishakhapatnam and he has been appointed for the said purpose. Since he has been continuously rendering the services to the satisfaction of all, it is only appropriate that his case should be considered in accordance with the scheme enunciated by the State Government through their G.O.Ms.No.212, Finance and Planning Department dated 22.4.1994. Seeking this very same relief, the petitioner had earlier filed W.P.No.19663 of 1994 which writ petition has been disposed of by this Court on 27.9.1995. Pursuant to the directions issued by this Court in the said writ petition, the A.P. Study Circle had considered the case of the petitioner and passed the orders through their Memo dated 26.9.1996 declining to regularize his services. The reason that was assigned by the Study Circle was that he had not completed the period of five years which is an essential requirement spelt out in G.O.Ms.No.212 for enabling the regularization of the services of the temporary servants. It is the assertion of the

Study Circle that by 25.11.1993, the date specified for the purpose of reckoning in G.O.Ms.No.212, the writ petitioner fell short of nearly 2 ½ months of service and hence, his case could not be dealt with under the scheme of regularization set out through G.O.Ms.No.212. The respondents have also pointed out that the writ petitioner had also instituted yet another writ petition No.7278 of 2004 which was also disposed of by an order dated 28.11.2004 and once again, his case has been re-examined on 5.11.2005 and it was also rejected for the very same reason.

It is appropriate to notice at this stage that a Division Bench of this Court had held that while dealing with the scheme of regularization, the cut off date – 25.11.1993 specified in G.O.Ms.No.212 should be understood as suggestive of enabling the temporary servants to have their service regularized on completion of the five year-period and therefore, it should be accordingly construed. However, the State Government had carried the matter by way of Appeal to the Supreme Court in S.L.P.Nos.5954—5981 of 2002 and the same are still pending consideration of the Supreme Court. Therefore, depending upon the outcome in the aforesaid cases, the case of the writ petitioner deserves to be

re-examined for the purpose of regularization of his services with reference to the date on which he would have completed five years of continuous service. Therefore, as at present, the respondents cannot be compelled to regularize the services of the petitioner by issuing a writ of mandamus, but it would be only appropriate to direct the respondents to carry on the said exercise of regularization depending upon the outcome of the pending cases with reference to G.O.Ms.No.212 before the Supreme Court.

The writ petitioner however makes a fervent plea that the

respondents are not paying him the salary and allowances attached to the post in accordance with the scale of pay prescribed therefor. Since such an issue falls outside the scope of the present writ petition, I do not wish to express any opinion thereon. It is always open to the writ petitioner to draft an appropriate representation and submit the same to the respondent authorities. Sri Moola Vijaya Bhaskar, learned Standing Counsel for the A.P. Study Circle would submit that as and when such representation is submitted, the same is bound to receive the consideration of the appropriate authority and would be decided as expeditiously as possible within a maximum period of three months thereafter.

With this, the writ petition stands disposed of. No costs.

_____

NOOTY RAMAMOHANA RAO.J.

10.10.2007
psr